
1996 Wis Eth Bd 11
SOLICITATION

A state agency, pursuant to provisions of the *Wisconsin Statutes*, that has created a specific program that permits the agency to solicit and accept funds from a business engaged in a project that is part of the program, may solicit and accept financial and other contributions from a business that is participating in a project to which the funds will be applied, even if the business is likely to be substantially affected by statutes and rules the agency administers and enforces and employs a lobbyist.
OEB 96-11 (July 31, 1996)

Facts

[1] This opinion is based upon these understandings:

- a. You write on behalf of a state agency.
- b. The agency is undertaking several cooperative projects with Wisconsin businesses pursuant to a program created by *Wisconsin Statutes*.
- c. The agency wants to create a partnership pursuant to the statutory program with a business in order to undertake a project.
- d. The business wants to provide funds to cover the costs of the project.

Questions

[2] The Ethics Board understands your question to be:

May the agency solicit and accept financial and other contributions from the business to undertake the project?

Discussion

[3] The Ethics Board has advised that §19.45(3) and §13.625, *Wisconsin Statutes*, permit an agency to solicit and accept money from the private sector for projects as long as (1) individuals, businesses and organizations that are solicited for, or who make, contributions are not likely to be substantially affected by statutes and rules the agency administers and enforces; and (2) neither lobbyists nor organizations that employ lobbyists are solicited. 1995 Wis Eth Bd 7. Standing alone, §§19.45(3) and 13.625 would apply to prohibit the agency from soliciting or accepting contributions from the business in the situation about which you have asked.

[4] However, a provision of the *Wisconsin Statutes*, provides:

The agency may seek and receive voluntary contributions of funds from a municipality or any other public or private source for all or part of the costs of specified projects.

[5] We believe that this section should be read as creating a limited exception to the restrictions of the Ethics Code and lobbying law.

[6] The purpose of any statutory construction is to ascertain and give effect to the intent of the Legislature. *State v. Pham*, 137 Wis. 2d 31 (1987). The interaction between two statutes can create an ambiguity in interpretation. *In re custody of D.M.M.*, 137 Wis. 2d 375 (1987). The law presumes that when there is a conflict a more specific statute should control over a more general statute, particularly when the specific statute is enacted subsequent to the more general statute. 78 Op. Att’y Gen. 149, 151 (1989).

[7] Here, the statutory provision specifically addresses the agency’s authority to solicit and accept contributions for a particular program. It provides that the agency may solicit and accept contributions *from any source* for the statutory program *as long as* the funded activities are part of a statutory cooperative effort by the agency and the person providing the funds. In addition, the legislature has narrowly drawn the exception to permit the solicitation and receipt of funds only from those individuals and entities who are part of a cooperative effort in a project to which the funds will be applied. This suggests that the legislature was mindful of the Ethics Code and lobbying law restrictions, and the public policy behind those restrictions, in creating the exception and that it intended to affect application of those laws in the limited circumstances addressed by the statute.*

* In the past, when the legislature has wanted to permit solicitation and acceptance of funds without restriction from the Ethics Code or lobbying law, it has created specific exceptions in those statutes. See §13.625(8), (8m), (9), and (10) and §19.56(3)(e), (em), and (f), *Wisconsin Statutes*. A broadly drawn exception in the statutes that would have permitted the agency to solicit and accept funds from anyone for the program in question might have suggested that

[8] For these reasons, the Board believes that §144.968(2), *Wisconsin Statutes*, permits the agency to solicit and accept funds from the business for the stated purpose even though the business is a lobbying principal regulated by the agency.

Advice

[9] The Ethics Board advises that the agency, pursuant to provisions of the *Wisconsin Statutes* that have created a specific program that permits the agency to solicit and accept funds from a business engaged in a project that is part of the program, may solicit and accept financial and other contributions from a business that is participating in a project to which the funds will be applied, even if the business is likely to be affected substantially by statutes and rules the agency administers and enforces and employs a lobbyist.

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